

**PREAPPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

82771P279

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on July 18, 2007.

Signature

Typed or printed  
name Tu T. Nguyen

Application No.

09/222,340

Filed

December 28, 1998

First Named Inventor

William F. Terrell

Art Unit

2143

Examiner

Joseph R. Maniwang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

NOTE: No more than five (5) pages may be provided.

I am the:

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)
- ☒ Attorney or agent of record.  
Registration Number 42,034
- ☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

Thinh V. Nguyen

Typed or printed name

(714) 557-3800

Telephone Number

July 18, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

☐ \*Total of \_\_\_\_\_ forms are submitted.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application. No. : 09/222,340  
Applicant : William F. Terrell  
Filed : 12/28/1998  
TC/A.U. : 2143  
Examiner : Joseph R. Maniwang

Confirmation No. 3304

Docket No. : 082771.P279  
Customer No. : 8791

Commissioner for Patents  
PO Box 1450  
Alexandria VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

In response to the Final Office action dated April 19, 2007, Applicant would like to request a pre-appeal panel review of the application.

**Remarks/Arguments** begin on page 2 of this paper.

### **REMARKS/ARGUMENTS**

Claims 1-14 and 16-26 are pending in the present application.

This request is in response to the Final Office Action mailed April 19, 2007. In the Final Office Action, the Examiner rejected claims 1-14, 16-25 under 35 U.S.C. §103(a). Applicant respectfully traverses the rejections and submits that the Examiner has not established a prima facie case of obviousness.

Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

There are several clear errors in the Examiner's rejections and arguments.

1. Lakshman merely discloses filter rules, not an admission policy as claimed:

Applicant refers to the response filed January 29, 2007, page 12. Among other things, Applicant submits that the filter merely performs a point-location in a multi-dimensional space. Point-location is not related to differentiated service levels. Furthermore, they are not dynamically created or removed.

2. Barzilai merely discloses a statically compiled packet filter, not a classifier as claimed:

Applicant refers to the response filed January 29, 2007, pages 12-13. Among other things, Applicant submits that the filters are merely used to classify packets based on the RSVP flow which is uniquely identified by the 5-tuple (protocol, src address, src port, dst address, dst port), not having criteria corresponding to an admission policy related to differentiated service levels.

3. Barzilai merely discloses dynamic code generation, not dynamically creating and removing the filters:

Applicant refers to the response filed January 29, 2007, page 13. Among other things, Applicant submits that the code of the packet filter is dynamically compiled, not the filter being dynamically created and removed.

4. Gai merely discloses applying the prescribed policy or service treatments to the given traffic flow, not dynamically creating and removing the filters:

Applicant refers to the response filed January 29, 2007, pages 13-14, supported by arguments presented on pages 7-10. Among other things, Applicant submits that: (1) a policy or service treatments is not equivalent to a filter, (2) "applying" is not the same as "creating" or

“removing”, and (3) a “prescribed” policy means that the policy has been fixed and cannot be dynamically created or removed.

5. The Examiner mis-applied official notice in rejecting claims 12 and 26:

Applicant refers to the response filed January 29, 2007, pages 14-15. Among other things, Applicant submits that the Examiner fails to present a technical line of reasoning to show the official notice that controller dynamically removing a filter based on time of day is clear and unmistakable. In addition, Applicant submits that the Examiner mis-read Boon.

Accordingly, Applicants respectfully request the Review Panel render a decision allowing the application.

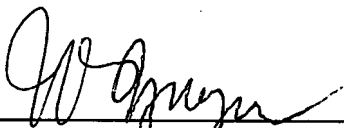
***Conclusion***

Applicant respectfully requests the Review Panel render a decision allowing the application.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: July 18, 2007

By   
Thinh V. Nguyen  
Reg. No. 42,034  
Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor  
Los Angeles, California 90025

---

**CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)**

*I hereby certify that this correspondence is, on the date shown below, being:*

**MAILING**

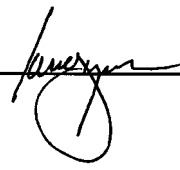
**FACSIMILE**

☒ deposited with the United States Postal Service  
as first class mail in an envelope addressed to:  
Commissioner for Patents, PO Box 1450,  
Alexandria, VA 22313-1450.

☐ transmitted by facsimile to the Patent and  
Trademark Office.

Date: July 18, 2007

Tu Nguyen



July 18, 2007

Date